

JAP:TAD

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

11-1222 M

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UNITED STATES OF AMERICA

PRE-ARRAIGNMENT  
C O M P L A I N T

- against -

(21 U.S.C. §§ 952(a) and  
960)

JOEL FRANCISCO FERNANDEZ BATISTA,

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

JOHN MOLONEY, being duly sworn, deposes and states that he is a Special Agent with Homeland Security Investigations ("HSI"), duly appointed according to law and acting as such.

Upon information and belief, on or about December 9, 2011, within the Eastern District of New York and elsewhere, the defendant, JOEL FRANCISCO FERNANDEZ BATISTA, did knowingly, intentionally and unlawfully import into the United States from a place outside thereof, a substance containing cocaine, a Schedule II controlled substance.

(Title 21, United States Code, Sections 952(a) and 960).

The source of your deponent's information and the grounds for his belief are as follows:<sup>1/</sup>

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<sup>1/</sup> Because the purpose of this Complaint is to state only probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

1. At approximately 10:30 p.m. on December 9, 2011, the defendant JOEL FRANCISCO FERNANDEZ BATISTA arrived at John F. Kennedy International Airport in Queens, New York, aboard Jet Blue Flight No. 838 from Santo Domingo, Dominican Republic.

2. A Customs and Border Protection ("CBP") officer approached defendant JOEL FRANCISCO FERNANDEZ BATISTA for a routine enforcement examination. Defendant JOEL FRANCISCO FERNANDEZ BATISTA presented his luggage for examination. During the luggage exam, the defendant appeared visibly nervous, as his hands were shaking and he avoided eye contact. A pat-down was conducted, during which the defendant continued to appear visibly nervous.

3. In response to the CBP officer's questions, the defendant, JOEL FRANCISCO FERNANDEZ BATISTA, stated that he was currently unemployed and had purchased his ticket to the United States with cash borrowed from a friend in Santiago, Dominican Republic. The defendant refused to state the name of the person from whom he had borrowed the money. The defendant indicated that his sister (who lived in Queens) might pick him up from the airport, but he then stated that his sister did not know he was coming in. The defendant could not provide any telephone number for his sister in Queens. At this point, the defendant, JOEL FRANCISCO FERNANDEZ BATISTA, admitted to having swallowed foreign bodies.

4. The defendant was presented with an x-ray consent form, which he voluntarily signed. The defendant was thereafter transported to a medical facility at JFK. Before the x-ray could be taken, the defendant asked to go to the bathroom. He immediately passed six pellets, one of which was probed, revealing a white powdery substance that field-tested positive for the presence of cocaine. The defendant was then placed under arrest. A subsequent x-ray revealed the presence of foreign bodies in the defendant's intestinal tract.

5. The defendant JOEL FRANCISCO FERNANDEZ BATISTA will be detained at the JFK medical facility until such time as he has passed all of the pellets contained in his intestinal tract.

WHEREFORE, your deponent respectfully requests that the defendant JOEL FRANCISCO FERNANDEZ BATISTA be dealt with according to law.

S/ John Moloney

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JOHN MOLONEY  
Special Agent  
Homeland Security Investigations

Sworn to before me this  
12th day of December, 2011  
S/ Roanne Mann

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HONORABLE ROANNE L. MANN  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK